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Attorney for Plaintiff
WAYNE BERRY

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

WAYNE BERRY,)	
	)	Civ. No. 07 CV-0172 SOM-LEK
Plaintiff,	)	(Copyright)
)	
vs.)	
)	
DEUTSCHE BANK TRUST	)	DECLARATION OF TIMOTHY J.
COMPANY AMERICAS (FKA	)	HOGAN IN SUPPORT OF
BANKERS TRUST COMPANY)AND	)	PLAINTIFF WAYNE BERRY'S
JP MORGAN CHASE BANK IN	)	MEMORANDUM IN OPPOSITION
THEIR SEPARATE CAPACITIES	)	TO DEFENDANTS' MOTION TO
AND AS AGENTS FOR THE PRE	)	CHANGE VENUE AND
AND POST-PETITION LENDERS OF)	)	COUNTER-MOTION FOR
FLEMING COMPANIES, INC. et al., )	)	RECUSAL; EXHIBITS "1" TO "5"
)	
Defendants.)	
_____)	

DECLARATION OF TIMOTHY J. HOGAN

I, Timothy J. Hogan, an am attorney licensed to practice before all the courts of the state of Hawaii and hereby declare under penalty of perjury that the following is true and accurate to the best of my knowledge and belief. If called upon to testify regarding the matters contained herein, I am competent and willing to do so.

1. Attached hereto as Exhibit “1” is a true and correct excerpt copy from the Court’s Order Adopting and Modifying the October 25, 2006, and December 4, 2006 Reports of Special Master on the Parties’ Motions for Attorneys Fees in *Wayne Berry v. Hawaiian Express Service, Inc.*, CV 03-00385 SOM-LEK.

2. Prior to filing the instant complaint, I investigated the grounds for venue in Hawaii. Based on my discussion with Mr. Berry at the time and again in preparation for this opposition I remain of the belief that for purposes of Mr. Berry’s domicile, Hawaii is where he intends to reside although he presently lives in Florida.

3. Prior to filing the instant complaint I did online research on the State of Hawaii Bureau of Conveyances web site for grantee listings of the two banks that are the defendants in this case. The number returned documents exceeded

several hundred for each. Attached hereto as Exhibit “2” is a true and correct copy of a screen print from a search I did again on August 12, 2007 for “JP Morgan Chase.” Attached hereto as Exhibit “3” is a true and correct copy of a screen print from a search I did on the Bureau of Conveyances site on August 12, 2007 for “Deutsche Bank Tr Co Am”.

4. In *Wayne Berry v. Hawaiian Express Service, Inc.*, CV 03-00385 SOM-LEK the only out of state witnesses were Teresa Noa and the defense experts, to the best of my recollection.

5. In discussion regarding deposition planning with opposing counsel I offered to travel to New York and to produce Mr. Berry there for his deposition.

6. I am not licensed to practice in New York. Based on this Court’s entry of what the Court has ruled was a money judgment against Mr. Berry, the prevailing party in *Berry v. Hawaiian Express*, it is doubtful that Mr. Berry will be able to find another attorney to represent him in New York.

7. Attached hereto as Exhibit “4” is a true and correct copy of a the Memorandum In Support of the Lenders’ Motion to Reassign filed on June 1, 2007.

8. Attached hereto as Exhibit “5” is a true and correct copy of the district court’s docket in *Bank of Hawaii v. Lindsey*, CV03-00335.

Executed at Honolulu, Hawai’i, August 12, 2007.

/S/Timothy J. Hogan
TIMOTHY J. HOGAN